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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

HIGH COURT OF CHHATTISGARH AT BILASPUR

M. A. (C) NO.291 OF 2006

APPELLANT
Applicants

1. R.K. Yadav, aged about 50 years, S/o Ghasuram Yadav (Father of deceased).
2. Smt. Chandravali Yadav, aged about 47 years, W/o Shri R.K. Yadav, (mother of deceased).

Both R/o L.I.G.-2/2474, Housing Board, Industrial Aria, Bhilai, Distt. Durg (CG)

Vs

RESPONDENTS

1. Riaz Ali, S/o Umend Ali, R/o near Haddi Godam, Bus Stand, Seoni, (M.P.) Driver.
2. Abdul Naim, S/o Shikh Nawab, Near Chhoti Masjid, Seoni (M.P.) Owner of the Vehicle.
3. Divisional Manager, United India Insurance Company Ltd. Kachachari Chowk, Raipur (C.G.)

Present:
Mrs. Meera Jaiswal, Advocate for the appellants.
Mr. Abhishek Sinha, Advocate with Mr. Ghanshyam Patel, Advocate for respondent No.3

ORAL JUDGMENT

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

(Passed on 20/04/2007)

1) This is claimants' appeal for enhancement of compensation awarded for the death of their son namely Rakesh Yadav, who died in a motor vehicle accident on 27.7.2005. The tribunal has awarded a sum of Rs.6,91,776/- with interest @ 6% per annum from the date of application i.e. 12.8.2005 by applying multiplier of 11.

2) It is not disputed that deceased died at the age of 22 years and at that time he was bachelor. The claimants are parents of the deceased, who are aged 50 years & 47 years respectively and thus only grievance of the appellants in this appeal is that the tribunal has not applied the correct multiplier of 13 and instead, has applied multiplier of 11 considering the average age of the parents of deceased as 50 years, though from the evidence available on record, which is not disputed by the other side, the average age of the claimants was 48½ years and as per Schedule-II of the Motor Vehicles Act, 1988 multiplier ought to have been applied at 13 and not 11.

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश — 3 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

3) Learned counsel for the appellant submits that even under other heads i.e. expenses towards funeral, loss of love & affection, loss to estate and medical expenses, only a paltry sum of Rs.25,000/- has been awarded and even compensation has been assessed by applying wrong multiplier. Reliance is placed on the decision of Hon'ble Supreme Court in the matter of **Fakeerappa and another Versus Karnataka Cement Pipe Factory and others** report in **(2004) 2 Supreme Court Cases 473.**

4) On the other hand, learned counsel for respondent No.3-Insurance Company relying upon the judgment of Hon'ble Apex Court in the matter of **Donat Louis Machado and other V. L. Ravindra and others** reported in **1999 ACJ 1400** has submitted that though multiplier of 11 has been applied in this case in place of 13 as per age of the claimants, nevertheless, the tribunal has wrongly taken deduction of 1/3rd amount from the income of deceased towards his personal expenses and deduction of 2/3rd ought to have been made considering the fact that the deceased would have spent 2/3rd amount of his earnings on himself and his own family which he would have raised with the

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मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश — 4 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

lapse of time, had he been alive. It is further argued that a sum of Rs.6.91 Lac & odd has been awarded as compensation to the claimants and therefore, considering the overall situation existing in the present case no interference is called for.

5) I have heard learned counsel for the parties.

6) There is no dispute with respect to the fact that the only question to be adjudicated is whether the tribunal was justified in applying the multiplier of 11 considering the age of the parents of deceased and whether the tribunal has correctly deducted only 1/3rd amount for computing loss of earning.

7) From the evidence available on record it is observed that the deceased was 22 years old boy who did his graduation in engineering and was employed with a private concern and drawing salary more than Rs.7,000/- per month. The loss sustained by the poor parents towards the death of their young & promising son can never be compensated; however, considering the age and qualification of the deceased and further considering the background of the claimants it would be just and appropriate to assess the claim for which

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मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -5-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	the appellants were entitled by applying the multiplier of 12 instead of 11. 8) In the result, for the foregoing reasons, the appeal is partly allowed and the amount of compensation is computed by applying multiplier of 12 which comes to Rs.7,27,392/- and instead of Rs.25,000/-, Rs. 50,000/- is awarded under the various heads i.e. expenses towards funeral, loss of love and affection, loss to estate and medical expenses. Thus, an additional sum of Rs.85,616/- is awarded to the appellants with interest @ 6% p.a. from the date of claim petition till payment of this additional amount. No order as to costs. **Sd/-** **Dhirendra Mishra** **Judge**	
Roshan/-		

P.T.O.